

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

G and T Trust (Ted E. Wise),
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0439
Parcel No. 292/00563-001-000

On December 16, 2011, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, G and T Trust, was represented by Ted E. Wise. The Polk County Board of Review designated Assistant County Attorney David Hibbard as its legal representative and he represented it at hearing. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

G and T Trust (G and T) is the owner of a residential, duplex property located at 6409-6411 Forest Court, Windsor Heights, Iowa. The property is a one-story duplex, built in 1977, and has 1668 square feet of total living area. The property has a full, unfinished basement. Additionally, the property has a 576 square-foot, detached garage. The site is 0.219 acres.

G and T protested to the Polk County Board of Review regarding the 2011 assessment of \$156,400, which was allocated as follows: \$39,400 in land value and \$117,000 in improvement value. Its claim was based on two grounds: 1) that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a); and 2) that there has been a

change downward in the value since the last assessment under sections 441.37(1) and 441.35(3). In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we consider a claim that the subject property is assessed for more than the value authorized by law under section 441.37(1)(b).

The Board of Review denied the protest.

G and T then appealed to this Board reasserting its claims and stating the correct market value of the property is \$150,000, allocated as \$33,800 in land value and \$116,200 in improvement value.

G and T listed three properties as equity comparables on its Board of Review protest form and provided the following information:

		Assessed At:
292-00881-001-000	1415 73rd Street	\$126,400
292-00963-001-000	1379 73rd Street	\$156,200
292-00875-001-000	7117 Forest Court	\$150,200

One way to establish an equity claim is to demonstrate other like property is assessed at a different ratio compared to its market value. G and T provided a copy of the property record cards for each of the three properties listed. Additionally it provided a property improved only with a garage, 6415 Forest Court, which abutts the subject site. None of the comparable properties has sold recently. G and T did not offer a market value opinion for any of the properties. Without market values to establish a sales ratio analysis, this information does not conclusively support an equity claim.

G and T submitted three pages of income and expenses, essentially developing an income approach, for 2008, 2009, and 2010. For each year, it included the annual rent income accounting for vacancy and expenses excluding taxes to result in a net income. Each income analysis used a capitalization rate of 12.09% and subtracted a total of \$1600 for fixtures and equipment. The resulting values for corresponding years are as follows: 2008 - \$85,232, 2009 - \$65,132, and 2010 - \$77,978. There is no explanation of or support for the capitalization rate or for the wide fluctuation in values

from year to year. Additionally, we find it unusual that the income approach was developed in this manner for a two-unit income property. Ted Wise testified for G and T that he developed it this way because it is what the Board of Review has stated in the past it wants developed.

There are also hand-written notes on the first page of the income analysis (2008). Wise stated that the handwriting was apparently from someone on the Board of Review. He was unable to explain the notes or subsequent conclusions. For example, "\$162 is gross rent multiplier" is written on the page. But there is not enough information on the page to determine a GRM. Typically income-producing properties of this size are analyzed using the Gross Rent Multiplier (GRM) method. Therefore, we give this information no consideration.

G and T also offered an opinion letter from Rollie Bredeson, a Broker Associate with Iowa Realty. The letter was submitted on November 15, 2011, and determined a fair market value for the subject property as of January 1, 2009. The letter is not very detailed. Bredeson provides a one paragraph description of the subject property and indicates it is his opinion the rents being received are "very good." Although not stated in Bredeson's report, the record indicates the subject is generating approximately \$1500 total rent per month. Wise testified for G and T that current rents are \$800 and \$775 per unit, for a total of \$1575 per month; however, including vacancy, on an annual basis the total rent per month is \$1500.

Bredeson states the current rental market is "better" than the time he was analyzing, which was 2009; however, the values of properties "have fallen since 2009 due to a lack of demand and difficult financing." Bredeson does not offer any data to support these assertions. He attached a single-page to his letter that highlighted five duplex properties in the Windsor Heights area. Similar to the letter, the attachment is not detailed.

The properties sold between January 2008 and March 2010. The exact sales prices of the properties are unclear. They appear to have sold from \$158,000 to \$175,000, with a median sales price of \$175,000. Information about these sales is minimal and lacks any adjustments or analysis. It is

unclear how Bredeson determined a market value for the subject property of \$148,000, as of January 1, 2009, based on these sales. Regarding a more current value, Bredeson states “the value may be lower now that it is almost two-years later.” However, he provides no basis for this opinion.

In addition to the lack of detail and analysis in the opinion letter, it does not reflect a value for the subject property as of January 1, 2011, which is the subject of this appeal. As such, we give it minimal consideration.

The Board of Review did not provide any evidence.

Based on the foregoing, we find insufficient evidence has been provided to demonstrate the subject property is either inequitably assessed or over-assessed.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property’s fair and reasonable market value. *Id.* “Market value” essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or

comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, “other factors” may be considered in arriving at market value. § 441.21(2). The assessed value of the property “shall be one hundred percent of its actual value.” § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 579-580. The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

G and T provided three improved properties and a vacant lot it considered to be equity comparables; however, market values of these properties was not provided to support an inequity claim. Nor did G and T allege different methods were used to value the property. G and T did not show inequity under the tests of *Maxwell* or *Eagle Foods*.

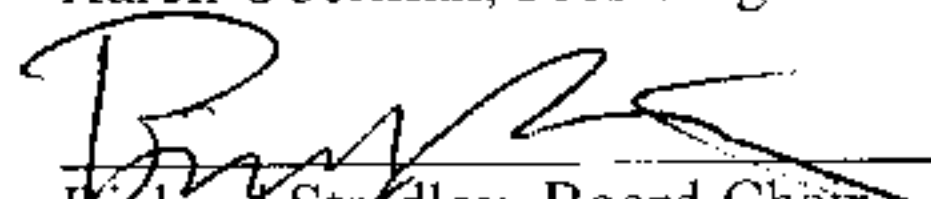
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). G and T offered a letter of opinion from Rollie Bredeson of Iowa Realty establishing an opinion of value as of January 1, 2009. This appeal is based on the January 1, 2011, assessment. G and T did not offer a value opinion as of January 1, 2011.

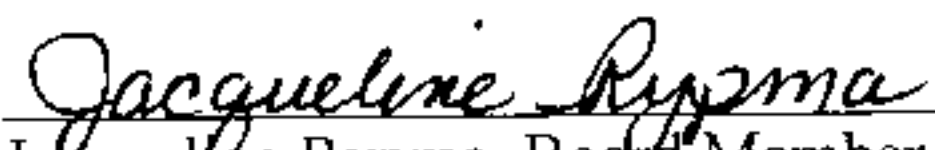
We find the preponderance of the evidence fails to support G and T's claims of inequity or over-assessment.

THE APPEAL BOARD ORDERS the assessment of the G and T Trust property located at 6409-6411 Forest Court, Windsor Heights, Iowa, of \$156,400, as of January 1, 2011, set by the Polk County Board of Review, is affirmed.

Dated this 19 day of January, 2012.


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>1-19</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
Signature:	